

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE

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Corey Taylor

Plaintiff

v.

JUN 26 2023

Case No: 3:22-cv-00920

U.S. District Court
Middle District of TN

Judge Campbell

Maj. Judge Newbern

Trinity Correctional Food Service et al

Defendants

Plaintiff's Motion of Opposition

To Defense motion of DISMISSAL

Comes Now Plaintiff Corey Taylor Now a State Sentenced Inmate of TDOC at Bledsoe Correctional complex, seeking to respectfully move this court to sustain his objection as it will be given in this motion of opposition, objecting unto Defendants motion to dismiss Plaintiff's claim. Plaintiff Respectfully Objects and seek this court to allow his claim to continue to move forward as a matter of law and due to the constitutional violations given herein and Plaintiff seeks that this matter be heard By the Maximum number allowed of Jurors.

Introduction

On the 8th day of June, 2023 Defendant Trinity Services Group, INC Filed a motion to Dismiss plaintiff's claim in stating that Plaintiff's claim Does not allege facts sufficient to support a claim for deliberate Indifference to Plaintiff's Serious medical need, and fails to allege an unconstitutional policy on the part of Trinity as required by monell. Plaintiff Objects and This court Shall Rule in the favor of plaintiff as Plaintiff will give Reasons as to why this claim Shall be allowed to move forward.

As standard Title 42 U.S.C. 1983 creates a cause of action against any person who, acting under color of state law, abridges "rights, privileges, or immunities secured by the Constitution and laws." To state a claim under Section 1983, a plaintiff must allege and show two elements: (1) that he was deprived of a right secured by the Constitution or laws of the United States; (2) that the deprivation was caused by a person acting under color of state law. *Dominguez v. Corr. Med. Servs.*, 555 F.3d 543, 549 (6th Cir. 2009) (quoting *Sigley v. City of Panama Heights*, 437 F.3d 521, 533) (6th Cir. 2006). In this court's Analysis (doc 5 page 10 #19 page 7). "This complaint alleges that Plaintiff has an objectively serious medical need; Trinity was aware that Plaintiff's medical need necessitated a particular diet; Trinity knew that failure to provide that particular diet would pose a risk to Plaintiff; Trinity failed to properly train and supervise the inmates who handle the special diet trays, ignoring the risk to Plaintiff; and Plaintiff was insured as a result of Trinity's policies, and employee's actions. This court found that Plaintiff stated a colorable claim under the Fourteenth Amendment and stated this claim shall move forward. Regarding this matter Defendants has stated Plaintiff failed to allege facts sufficient to support a claim for deliberate indifference. A prison official may be held liable under the Eighth Amendment for acting with "deliberate indifference" to inmate health or safety only if he knows that inmate face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it. *Farmer v. Brennan* 114 S.Ct. 1970. In Plaintiff's complaint Plaintiff showed that Trinity Services Group, Inc was aware of his need for a special diet which was a Doctors order given to food staff at the County Jail Plaintiff was housed. When special diets are given that alone places a food provider/preparer on notice and makes them aware that failure to comply

for which Trinity Services Group, Inc has done to Plaintiff on more than two occasions as the Defense falsely has claimed. on some occasions, including "meaning plus" on November 4, 2022 Plaintiff was able to determine visually that his meal trays contained spicy food and he did not consume the food, Plaintiff states that this was an assertion to point out exactly what he stated in his complaint and to bring light to the careless & Reckless Disregard to Defendants actions in preparations to his meals. Despite Plaintiff having been placed on a bland Diet and receiving meals trays labeled Diet/special "NO Spices added" These trays was labeled which lets this court know that Defendant was aware of the required meals/Diet of Plaintiff not to have spicy foods due to a serious medical issue but still acted with deliberate indifference to Plaintiff medical need and still provided Plaintiff with meals containing "spicy seasonings such as crushed Red Peppers, Jalapeno Peppers etc. There has been numerous occasions whereas Plaintiff consumed his meals unknowingly that they contained spicy Articles "seasonings" Due to the invisibility of not being able to see the spicy seasoning and Plaintiff tray be clearly labeled Bland Diet NO Spices Added or None Spicy Plaintiff assumed that his meals did not contain any spicy seasoning cause of the labels and due to Trinity Services Group having knowledge of the Diet/Medical restriction that Plaintiff was not to have any spicy products and that is the main reason as to why Plaintiff was placed on a Bland Diet in addition to medical staff placing Plaintiff on a Bland Diet It is medically advised that a person with lichen planus must adjust their Diet By first and foremost cutting out spicy, salty or acidic foods if they seem to trigger or worsen the symptoms of lichen planus. In the case of the Plaintiff Trinity Services Group whom was the food providers that prepared meals for Plaintiff failed to adhere to the diet restrictions, They failed to adequately supervise, Monitor and check Plaintiff meals to ensure that his meals were in accordance to his Diet

Due to Defendant's Failure which results in Deliberate Indifference, Reckless conduct and such carelessness Plaintiff suffered physical Injury, pain cause During the times he wasn't able to visibly see the Spicy products plaintiff ate his food and instantly suffered with a Burning feeling and severe pain which goes from the first bite and Plaintiff Ulcers were bleeding and his Gums began to swell, The pain was a 10 on a scale from 1-10 as plaintiff likened the pain to one pouring Rubbing alcohol on an open flesh wound and as taking hot curling irons to the skin. Per the complaint on one occasion Plaintiff's reaction was so severe that jail officials almost transported plaintiff to an outside hospital, instead Medical Provider D. Cullen was able to give Taylor a shot of DexMethosone which is a steroid shot to curb the reaction/pain. Plaintiff suffered continuously and this was beyond a Deliberate disregard towards Plaintiff medical needs which seriously necessitated his meals to be bland and spice free. Trinity employee's/ Trinity services Group failed to adhere to Plaintiff's medical needs. Plaintiff was given alternative trays for which the portions were inadequate and there were times plaintiff wasn't given a meal at all on 12/28/22 @ 16:45 p.m. Plaintiff was issued an Disciplinary Report Due to him following a Directive he was given in response to his numerous complaints regarding his meals. "In the event your meals are not associated with your Diet notify the officer for a correction to be made" This was told to Taylor in his grievance response that was finally answered months later after he filed the appeal to the original. Plaintiff states that if this court will allow this case to move forward once the Discovery phase approach Plaintiff prove his claims through this stage of Discovery. On the Date of 12/28/2022 @ 16:45 p.m. Taylor "Plaintiff" was given a Vegan tray that consisted of Cold Beans, Overcooked Noodles, Peanut Butter which it is medically documented that Plaintiff has an allergy to Peanut Butter. on the date mentioned above the Vegan tray did not have Plaintiff Name on it and it was labeled for another inmate and the officer stated she spoke to the kitchen staff but was told to give Taylor the tray it's the only tray with no added spices attached with

This motion Please take view / Judicial Notice of the Disciplinary Report. Also on 10/24/22 @ 18:26pm. Taylor was given a tray that consisted of spaghetti but it had crushed red peppers, Jalapeno peppers and Red Chili peppers in it which Taylor was able to view and this was seen by the reporting officer. Taylor was given an alternative tray which was extremely cold but the beans were warm enough to consume cause they were apart of the meal prepared for that day. Taylor was offered a paper grievance but declined it cause DCSO "Davidson County Sheriff's Office" no longer process paper grievances "see attached Jail Incident Report". This is just two reports of numerous reports that were filed by jail staff regarding inmates / plaintiff meals. Plaintiff made more than two claims about inedible meals plaintiff meals were contaminated with spices on numerous occasions. Defendants read what they wanted and ignored the entire complaint which stands as typical for the Defendants. A prisoner must plead facts which, if true, establish that a sufficiently serious deprivation has occurred. Harden-Bey v. Rutter 524 F.3d 789, 795 (6th Cir. 2008). Plaintiff has plead well enough if not beyond enough sufficient enough facts to establish a serious deprivation that has occurred. In Farmer "A prison official have a duty to provide humane conditions of confinement. They must ensure that inmates receive adequate food etc. In this matter plaintiff serious medical need not only necessitated medical treatment but a medically ordered and prescribed adjustment to his diet in that he be given regular meals minus spices which is known as a bland diet. A constitutional violation has occurred where the deprivation told is $\frac{1}{2}$ has been objectively "sufficiently serious", and the ~~Defendants~~ has acted with deliberate indifference" to plaintiff's serious medical need. This matter ~~is~~ Deliberate indifference entails more than negligence, and after being placed on notice of plaintiff receiving meals containing spicy seasonings the Defendants still provided plaintiff

Plaintiff's Meals as Being Bland and they were not. Plaintiff can understand if this issue occurred once or twice. But Plaintiff had an issue with every single lunch and dinner tray that he was served. For example out of 100 meals Total lunch & dinner Plaintiff 100 meals were either Spicy, Inadequate, cold and or not associated with his diet. Defendants disregarded the risk of harm, having already being made aware on several prior occasions about Plaintiff meal issues. Defendants having a culpable state of mind Ignored Plaintiff's serious medical need and placed Plaintiff at Risk of harm and Plaintiff suffered physical injuries including loss of weight alongside with physical pain, Mental anguish and suffering. The medical issue with Plaintiff is a rare but sufficiently serious condition and due to the failure of Defendants alleviating a significant risk of harm which they should of perceived as harm, Did not. The Infliction of pain and injury Plaintiff suffered amounts to wanton Infliction of pain and akin to Intentional Infliction of emotional Distress. law Governs all events and Defendants has acted with great deliberate indifference to Plaintiff's serious medical need. *Wilson v. Seiter* 501 U.S. 294, 298. Defendants state Plaintiff failed to allege a Policy to bring corporate liability. Plaintiff stated in complaint "It is the Policy, Agreement and contract with trinity Food Serv. that allows them to act in such careless, reckless, wanton deliberate Indifference manners. Trinity is the final decision makers Regarding The Jail Food Menu and It's Trinity's Duty and Responsibility to make sure that the meals are prepared in accordance to special diet restrictions and if they are not Trinity suppose to correct the meals and on numerous occasions Trinity Failed to adhere to It's own Policy & procedures and as a result of such failure Plaintiff suffered with Injuries. Defendants Relied upon Eighth Amendment law in their ^{motion} ~~complaint~~ which shall automatically Dismiss their motion cause this matter is in Violation of the Fourteenth Amendment For which Plaintiff was subjected unto. Due to being at the time

a pre-trial Detainee. Plaintiff attributed his injuries to an alleged policy in the body of his complaint. Trinity caused Plaintiff's injuries and such failure was due an policy, practice or custom cause even after being placed on notice Trinity failed to correct the matter / issues and plaintiff suffered for several months as a result. Defendants motion to Dismiss shall be Barred and Denied and Dismissed with prejudice and this matter shall move forward for further development as a matter of law. Plaintiff demands a jury of the maximum number allowed and plaintiff seeks all damages as requested.

Wherefore, Plaintiff Corey Taylor, respectfully request that this court Dismiss Defendants motion with prejudice and allow this matter to continue with further development and a jury trial be conducted and Plaintiff be awarded all damages as requested and all costs and fees to Defendants; and for such other relief as this court deems meet and just in the circumstances.

Respectfully
Corey Taylor

Certificate Of Service

I, Corey Taylor hereby certify that on this 17th Day of June 2023 I placed this handwritten document in the BCCX inmate mail with an indigent envelope to be mailed to the U.S. Dist Clerk of court for filing and viewing via ECF system for all parties involved. This is accurate? True

Corey Taylor, #534419

BCCX 1045 Horsehead Rd

Respectfully
Corey Taylor

Corey Taylor
534419
1045 Horsehead Rd
Dikeville, TN 37367

CHATTANOOGA TN 373
Legal
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